

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Dukich	Team: Squad #8	CCRB Case #: 202107559	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 12/04/2021 10:52 PM	Location of Incident: Southwest corner of Empire Boulevard and Albany Avenue	Precinct: 71	18 Mo. SOL 6/4/2023	EO SOL 6/4/2023	
Date/Time CV Reported Sat, 12/04/2021 11:48 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/13/2021 10:18 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Aaqib Bhatti	14985	963873	071 PCT
2. LT SA Timothy Brovakos	00000	943025	071 PCT
3. PO Steven Caraballo	21893	952545	071 PCT
4. PO Christopher Rodriguez	04501	964733	071 PCT
5. PO Mubbashar Zahid	03267	965634	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT SA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid refused to provide his name to § 87(2)(b)	
C.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid refused to provide his shield number to § 87(2)(b)	
D.LT SA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	
E.PO Christopher Rodriguez	Abuse: Police Officer Christopher Rodriguez threatened to arrest § 87(2)(b)	
F.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid frisked § 87(2)(b)	
G.PO Steven Caraballo	Abuse: Police Officer Steven Caraballo frisked § 87(2)(b)	
H.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid searched § 87(2)(b)	
I.PO Steven Caraballo	Abuse: Police Officer Steven Caraballo searched § 87(2)(b)	
J.PO Aaqib Bhatti	Force: Police Officer Aaqib Bhatti used physical force against § 87(2)(b)	
K.LT SA Timothy Brovakos	Force: Lieutenant Timothy Brovakos used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L.PO Steven Caraballo	Force: Police Officer Steven Caraballo used physical force against § 87(2)(b)	
M.PO Christopher Rodriguez	Force: Police Officer Christopher Rodriguez used physical force against § 87(2)(b)	
N.PO Mubbashar Zahid	Force: Police Officer Mubbashar Zahid used physical force against § 87(2)(b)	
O.PO Steven Caraballo	Force: Police Officer Steven Caraballo used physical force against § 87(2)(b)	
P.PO Mubbashar Zahid	Force: Police Officer Mubbashar Zahid used physical force against § 87(2)(b)	
Q.LT SA Timothy Brovakos	Force: Lieutenant Timothy Brovakos restricted § 87(2)(b) s breathing.	
R.PO Aaqib Bhatti	Force: Police Officer Aaqib Bhatti restricted § 87(2)(b) s breathing.	
S.PO Christopher Rodriguez	Force: Police Officer Christopher Rodriguez restricted § 87(2)(b) s breathing.	
T.PO Steven Caraballo	Force: Police Officer Steven Caraballo restricted § 87(2)(b) s breathing.	
U.PO Christopher Rodriguez	Abuse: Police Officer Christopher Rodriguez frisked § 87(2)(b)	
V.LT SA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos frisked § 87(2)(b)	
W.PO Christopher Rodriguez	Abuse: Police Officer Christopher Rodriguez frisked § 87(2)(b)	
X.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid threatened to arrest § 87(2)(b)	
Y.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid threatened to arrest § 87(2)(b)	
Z.PO Christopher Rodriguez	Abuse: Police Officer Christopher Rodriguez searched the vehicle in which § 87(2)(b) was an occupant.	
2A.PO Aaqib Bhatti	Abuse: Police Officer Aaqib Bhatti refused to provide his name to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

## Case Summary

On December 13, 2021, the CCRB received the following complaint via original IAB log # 21-27368.

On December 4, 2021, at approximately 10:52 p.m., Lieutenant Timothy Brovakos of the 71<sup>st</sup> Precinct stopped § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) asked for the name and shield number of Police Officer Mubbashar Zahid of the 71<sup>st</sup> Precinct which PO Zahid allegedly failed to provide (**Allegations B and C: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos told § 87(2)(b) that he would be arrested if he did not step out of the vehicle (**Allegation D: Abuse of Authority**, § 87(2)(g)).

Once § 87(2)(b) exited his vehicle, PO Rodriguez allegedly told another occupant of the vehicle, his brother § 87(2)(b) that he would be arrested if he exited the vehicle (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Zahid and allegedly Police Officer Caraballo of the 71<sup>st</sup> Precinct frisked § 87(2)(b) (**Allegation F: Abuse of Authority**, § 87(2)(g); **Allegation G: Abuse of Authority**, § 87(2)(g)) and searched his pockets (**Allegation H: Abuse of Authority**, § 87(2)(g); **Allegation I: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos, PO Zahid, PO Caraballo, Police Officer Christopher Rodriguez of the 71<sup>st</sup> Precinct, and Police Officer Aaqib Bhatti of the 71<sup>st</sup> Precinct, then allegedly dragged § 87(2)(b) onto the roof of his vehicle (**Allegations J-N: Force**, § 87(2)(g)). PO Caraballo and PO Zahid took § 87(2)(b) to the ground (**Allegations O and P: Force**, § 87(2)(g)). On the ground, Lt. Brovakos, PO Bhatti, PO Rodriguez, and PO Caraballo allegedly placed their knees onto § 87(2)(b)'s back (**Allegations Q-S: Force, unfounded; Allegation T: Force**, § 87(2)(g)).

PO Rodriguez and Lt. Brovakos frisked § 87(2)(b) (**Allegation U and V: Abuse of Authority**, § 87(2)(g)). PO Rodriguez frisked § 87(2)(b) (**Allegation W: Abuse of Authority**, § 87(2)(g)). PO Zahid told § 87(2)(b) "Step out or you're going to be placed under arrest" (**Allegation X: Abuse of Authority**, § 87(2)(g)). PO Zahid allegedly told § 87(2)(b) "If you kick me one more time, I am going to charge you with assault against a police officer" (**Allegation Y: Abuse of Authority**, § 87(2)(g)). PO Rodriguez searched § 87(2)(b)'s vehicle (**Allegation Z: Abuse of Authority**, § 87(2)(g)).

An ambulance was called to evaluate § 87(2)(b)'s psychiatric history. EMS evaluated him but did not remove him to the hospital. PO Bhatti drove away with the keys to § 87(2)(b)'s vehicle. When he returned, § 87(2)(b) allegedly asked for his name and PO Bhatti refused to provide it to him (**Allegation AA: Abuse of Authority**, § 87(2)(g)).

§ 87(4-b) § 87(2)(g)

§ 87(2)(b) was not arrested as a result of this incident but received a C summons for § 87(2)(b) (Board Reviews 01 and 09).

BWC from Lt. Brovakos, PO Bhatti, PO Zahid, PO Caraballo, and PO Rodriguez was obtained by the investigation (Board Review 02-07).

§ 87(2)(b) provided a video recording of the incident from his phone to the investigation (Board Review 08).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (B) Abuse of Authority: Police Officer Mubbashar Zahid refused to provide his name to § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Mubbashar Zahid refused to provide his shield number to § 87(2)(b)**

**Allegation (D) Abuse of Authority: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b).**

§ 87(2)(b) stated to the CCRB on January 19, 2022, that on December 4, 2021, at approximately 10:52 p.m., he was sitting in the driver's seat of his registered Silver 2016 Nissan Altima. His vehicle, which was off, was double-parked for over 20 minutes near the southeast corner of Albany Avenue and Empire Boulevard in Brooklyn. § 87(2)(b)'s girlfriend, § 87(2)(b) was in the front passenger seat, and his brother, § 87(2)(b) was in the backseat. None of the vehicles' windows were tinted. § 87(2)(b) sat with a lit marijuana "blunt" in his right hand, which he denied smoking.

An unmarked police vehicle drove past him and an officer in the passenger seat shone a green flashlight inside his vehicle. A second unmarked police vehicle then parked behind his vehicle. PO Zahid, Lt. Brovakos, and PO Caraballo approached the driver's seat and § 87(2)(b) rolled down his window to speak with the officers. PO Zahid said § 87(2)(b) was smoking a blunt and asked him for his name and ID. § 87(2)(b) believed that he told PO Zahid his name, then asked him for his name and his badge number, which PO Zahid failed to provide. § 87(2)(b) asked him several times for this information but did not receive a response. § 87(2)(b) tried to explain that he was not smoking the blunt, which remained in his left hand, but that he just lit it to pass to his girlfriend. § 87(2)(b) took his phone out and began to record PO Zahid, approximately a foot away from his face. He believed that the flashlight on his phone was not on while he did this.

PO Zahid asked § 87(2)(b) for his ID again, however he reached his left arm through the driver's seat window and opened § 87(2)(b)'s door before § 87(2)(b) had time to provide it. PO Zahid then grabbed § 87(2)(b) with both of his hands around his left wrist and pulled him out of his vehicle (Board Review 10).

§ 87(2)(b)'s testimony on January 21, 2022, was largely consistent with § 87(2)(b)'s aside from the following: § 87(2)(b)'s vehicle was parked at the location for approximately 30 minutes, during which time § 87(2)(b) smoked a cigarette laced with marijuana. Neither § 87(2)(b) nor § 87(2)(b) smoked with him. The windows of the vehicle were cracked open, and the vehicle was not fogged up from the smoke. The windows were slightly tinted, though somebody looking in from the outside could clearly see what was happening inside the vehicle. PO Zahid told § 87(2)(b) to step out of the vehicle approximately three times and § 87(2)(b) asked why he had to step out of the vehicle each time that he asked. PO Zahid told him that his vehicle smelled like marijuana. § 87(2)(b) was "taking his time" to come out of the vehicle and "playing stubborn" but § 87(2)(b) believed he was going to get out of the vehicle, though he could not explain why. § 87(2)(b) never verbally refused to exit the vehicle. Around ten seconds after he approached, PO Zahid used both of his hands to pull § 87(2)(b) out of the vehicle by grabbing his shirt near his chest and his head (Board Review 11).

§ 87(2)(b)'s testimony on January 21, 2022, was largely consistent with § 87(2)(b) and § 87(2)(b) aside from the following: Nobody in the vehicle was smoking. PO Zahid told § 87(2)(b) to

get out of the vehicle, and § 87(2)(b) turned his body to the left to exit the vehicle. PO Zahid then grabbed § 87(2)(b) by his left arm with his right hand. § 87(2)(b) tried to shake his arm out of the grip of PO Zahid as he pulled him out of the vehicle (Board Review 12).

§ 87(2)(b) and § 87(2)(b) were interviewed for this incident, though they did not witness any of the allegations (Board Review 13, 14).

Video provided to the investigation by § 87(2)(b) begins with § 87(2)(b) holding the phone camera in his left hand, pointing at his steering wheel. He holds a blunt in his right hand, which is lit and emitting smoke. The dashboard on the vehicle is not visibly illuminated. PO Zahid says "driver" at 00:00. A flashlight shines into the vehicle. PO Zahid asks for § 87(2)(b)'s ID and § 87(2)(b) says, "What's your name" at 00:01. PO Zahid says, "I need your ID, you're smoking a blunt, you can't be smoking, alright?" at 00:04. PO Zahid then reaches through § 87(2)(b)'s window with his left hand and opens his door at 00:05. PO Zahid then says, "Keep your hands free." The phone moves around, and the video concludes (Board Review 08).

PO Zahid's BWC begins with PO Zahid in the back seat of a moving vehicle. At 03:51:45, PO Zahid exits the vehicle's right side and approaches a gray/silver vehicle that is double parked on the right side of the street. A black unmarked police vehicle is parked behind the gray vehicle. PO Zahid walks up to the driver's side of the vehicle, while PO Bhatti walks up to the vehicle's passenger side. § 87(2)(b) who sits in the driver's seat, rolls down his window and PO Zahid says, "Give me your license, man. Registration, insurance, ID" at 03:52:10. § 87(2)(b) asks PO Zahid what his name is, and PO Zahid responds, "Zahid." PO Zahid walks over briefly to the front of the vehicle then walks back, and says, "You want my name, right? Zahid" at 03:52:21. PO Zahid asks for § 87(2)(b)'s ID two more times. He tells § 87(2)(b) that he is smoking a blunt, and that he cannot be smoking (Board Review 04).

In Lt. Brovakos' BWC from the incident, at 3:52:48, Lt. Brovakos tells § 87(2)(b) "Sir step out of the car, or you're going to be placed under arrest." At 3:53:04, he tells § 87(2)(b) to calm down and tells him he is not under arrest (Board Review 02).

On April 7, 2022, PO Zahid testified to the CCRB that on December 4, 2022, at approximately 10:52 p.m., he was in the backseat of a vehicle that Lt. Brovakos was driving. PO Bhatti was in the passenger seat of the vehicle. Behind the vehicle Lt. Brovakos drove was an unmarked vehicle with PO Caraballo and PO Rodriguez inside. The two vehicles work and perform vehicle stops together. Lt. Brovakos decided to stop § 87(2)(b)'s vehicle for double-parking, though PO Zahid could not recall if they discussed stopping the vehicle beforehand.

As PO Zahid exited the front passenger side, he was a few feet away from § 87(2)(b)'s vehicle. He observed § 87(2)(b) holding a lit marijuana cigarette in her hand. PO Zahid approached the driver's side, at which time he saw § 87(2)(b) pass the lit marijuana cigarette to § 87(2)(b) who was in the driver's seat. PO Zahid smelled burnt marijuana, while the inside of the vehicle was filled with smoke. PO Zahid did not recall if he saw § 87(2)(b) smoke the marijuana cigarette. As PO Zahid approached, § 87(2)(b) looked around from side to side and reached down towards his leg or waistband area. § 87(2)(b)'s eyes were glossy, indicating to PO Zahid that he was intoxicated. PO Zahid asked for § 87(2)(b)'s license or identification. In response, § 87(2)(b) asked PO Zahid for his name and PO Zahid told it to him twice. To PO Zahid's understanding, § 87(2)(b) was under arrest at that time for impairment while operating a vehicle (Board Review 15).

Lt. Brovakos' testimony on June 2, 2022, was largely consistent with PO Zahid's aside from the

following. Lt. Brovakos did not recall whether he saw a marijuana cigarette in anyone's hand, though he knew that the individuals were smoking marijuana because he saw smoke and was able to recognize it's consistency. To his recollection, the vehicle was on, though he could not say for sure (Board Review 16).

*New York Vehicle and Traffic Law (VTL) 1202 (a) (1)* states that except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall: 1. Stop, stand or park a vehicle: a. On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street (Board Review 17).

*People v Garcia*, 20 N.Y.3d 317 held that "a police officer may, as a precautionary measure and without particularized suspicion, direct the occupants of a lawfully stopped vehicle to step out of the car" (Board Review 18).

*NY CLS Penal § 195.05* states, that "a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of physical force or interference, or by means of any independently unlawful act." Obstructing governmental administration is a class A misdemeanor (Board Review 19).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Christopher Rodriguez threatened to arrest**

§ 87(2)(b)

**Allegation (F) Abuse of Authority: Police Officer Mubbashar Zahid frisked** § 87(2)(b)

**Allegation (G) Abuse of Authority: Police Officer Steven Caraballo frisked** § 87(2)(b)

**Allegation (H) Abuse of Authority: Police Officer Mubbashar Zahid searched** § 87(2)(b)

**Allegation (I) Abuse of Authority: Police Officer Steven Caraballo searched** § 87(2)(b)

§ 87(2)(b) stated that once he was outside of his vehicle, PO Caraballo turned him around so that he faced the vehicle. One of the officers pushed him up against the vehicle and told him to stop resisting. § 87(2)(b) denied doing anything with his body to resist at that time. PO Zahid and PO Caraballo patted down § 87(2)(b)'s legs and searched his pants pockets while he had both of his hands in the air. He did not recall whether they recovered anything (Board Review 10).

§ 87(2)(b) stated that § 87(2)(b) attempted to get out of the vehicle and PO Rodriguez, who was by his window, told him that if he got out of the vehicle, he would be arrested (Board Review 12).

PO Rodriguez's BWC does not capture him threatening to arrest § 87(2)(b) at any point during the incident (Board Review 07).

In PO Zahid's BWC, at 03:52:59, PO Zahid opens § 87(2)(b)'s door and tells him to keep his hands free. PO Zahid asks § 87(2)(b) if he is "good to drive," and reaches into the vehicle. He takes hold of § 87(2)(b) by his arm at 03:52:36. § 87(2)(b) says, "What are you doing?" and asks PO Zahid what he is grabbing him for. PO Zahid tells him to step out at 03:52:39 and § 87(2)(b) asks him, "What are you grabbing me for?" At 03:52:40, § 87(2)(b) leans his front body towards the steering wheel, and moves his right arm, in which he holds a phone, on his lap towards his waistband area. He says, "What are you grabbing me for," and PO Zahid tells him to "Stop reaching." PO Zahid tells him to step out again and § 87(2)(b) hands his phone to § 87(2)(b) who sits in the passenger seat. PO Zahid asks § 87(2)(b) to step out four more times, and § 87(2)(b) tells him to get off him.

PO Zahid tells § 87(2)(b) to turn around and § 87(2)(b) asks him what they are pulling him over for. At 03:53:09, PO Zahid touches what appears to be § 87(2)(b)'s waistband, though it is unclear whether he enters any of § 87(2)(b)'s pockets due to the darkness and angle of the video. At 03:53:13, PO Zahid pats down § 87(2)(b)'s legs while PO Caraballo stands to § 87(2)(b)'s right. At 03:53:19, § 87(2)(b) appears to shuffle, causing the camera to blur out of view (Board Review 04).

In PO Caraballo's BWC, at 3:53:06, PO Zahid begins to frisk § 87(2)(b)'s torso, then continues to frisk his waistband and legs. PO Caraballo stands a foot away from him but does not appear to participate in the frisk (Board Review 05).

PO Zahid testified that after around five minutes, he opened § 87(2)(b)'s door as a safety precaution and told him to step out, because he was going to be arrested. He did not recall how many times he told him to step out, however § 87(2)(b) did not step out right away. PO Zahid then took hold of his left arm or hand and pulled him out of the vehicle. § 87(2)(b)'s body was "tight" as PO Zahid did so. PO Zahid placed § 87(2)(b)'s arms on top of the vehicle and frisked him. However, § 87(2)(b) dropped his arms back to his sides twice and bladed his body by pushing his hips towards the vehicle, which made PO Zahid believe that he may have a weapon. PO Zahid moved § 87(2)(b) off the vehicle to pat him down (Board Review 15).

On August 17, 2022, PO Zahid provided additional testimony to the CCRB. He stated that he frisked § 87(2)(b)'s chest area upon taking him out of the vehicle before § 87(2)(b) began to push his body into his vehicle. He did not see any specific bulges on § 87(2)(b)'s body, nor did he at any time observe any weapons inside § 87(2)(b)'s vehicle prior to this frisk. PO Zahid believed that § 87(2)(b) may have had a weapon because he made a movement with his hand towards his waistband area while he was sitting in his vehicle. He could not remember what exactly he saw, other than that § 87(2)(b) made a "small movement towards his waistband area," because he was more concerned with the marijuana cigarette and evaluating § 87(2)(b) for intoxication.

PO Zahid did not recall searching § 87(2)(b)'s pockets. He was presented with his BWC from the incident, played from 03:53:01 until 03:53:16. This portion of the video did not refresh PO Zahid's memory of the incident. Specifically, he could not tell based on the video whether he searched § 87(2)(b)'s pockets (Board Review 20).

Lt. Brovakos testified that he did not instruct PO Zahid to pat down § 87(2)(b) at any time. PO Zahid was the only officer Lt. Brovakos saw pat § 87(2)(b) down. Lt. Brovakos did not remember whether he saw any bulges on § 87(2)(b) once he stepped out of the vehicle. He did not see any weapons on § 87(2)(b)'s person (Board Review 16)

*Terry v. Ohio*, 392 U.S. 1 established that “there must be a narrowly drawn authority to permit a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime. The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger” (Board Review 28).

Patrol Guide Procedure 212-11 states, that “A frisk is authorized when the member of the service reasonably suspects the person is armed and dangerous. This includes situations in which the officer reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the officer observes something on the person that she/he reasonably suspects is a weapon. A frisk may not be conducted to discover evidence or the proceeds or instrumentalities of a crime” (Board Review 21).

§ 87(2)(g)

PO Zahid testified that he did not observe any bulges on § 87(2)(b) at the point when he frisked him for weapons. However, he stated that while § 87(2)(b) was still seated inside the vehicle, he observed § 87(2)(b) reach towards his waistband area. Coupled with § 87(2)(b)'s refusals to provide his identification and to step out of the vehicle, this action led PO Zahid to believe that § 87(2)(b) may be concealing a weapon. In his BWC, PO Zahid asks § 87(2)(b) to step out a total of five times before he eventually does so. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (J) Force: Police Officer Aaqib Bhatti used physical force against § 87(2)(b)**  
**Allegation (K) Force: Lieutenant Timothy Brovakos used physical force against § 87(2)(b)**  
**Allegation (L) Force: Police Officer Steven Caraballo used physical force against § 87(2)(b)**  
**Allegation (M) Force: Police Officer Christopher Rodriguez used physical force against § 87(2)(b)**



§ 87(2)(b)

**Allegation (N) Force: Police Officer Mubbashar Zahid used physical force against § 87(2)(b).**

**Allegation (O) Force: Police Officer Steven Caraballo used physical force against § 87(2)(b)**

**Allegation (P) Force: Police Officer Mubbashar Zahid used physical force against § 87(2)(b)**

**Allegation (Q) Force: Lieutenant Timothy Brovakos restricted § 87(2)(b)'s breathing.**

**Allegation (R) Force: Police Officer Aaqib Bhatti restricted § 87(2)(b)'s breathing.**

**Allegation (S) Force: Police Officer Christopher Rodriguez restricted § 87(2)(b)'s breathing.**

**Allegation (T) Force: Police Officer Steven Caraballo restricted § 87(2)(b)'s breathing.**

In PO Zahid's BWC, § 87(2)(b) screams "What did I do, tell me what I did." At 03:53:26, Lt. Brovakos says "You're under arrest" and § 87(2)(b) asks what he is under arrest for. Lt. Brovakos responds that he was smoking a blunt. At 03:53:35, the sound of handcuffs can be heard. Bodies shuffle and an officer says "Put your hands behind your back" repeatedly. At 03:53:48, § 87(2)(b) appears to be on the ground surrounded by officers. PO Zahid drops his BWC at 03:53:51. At 03:53:55 an officer tells § 87(2)(b) "Give me your arms," and § 87(2)(b) screams "For what? What did I do?" several times. Lt. Brovakos and PO Caraballo crouch around § 87(2)(b) at 03:54:17. Lt. Brovakos tells § 87(2)(b) that he is kicking him, then says that he appears to be high off something (Board Review 04).

In PO Caraballo's BWC, § 87(2)(b) attempts to drop his hands down at 3:53:15 and PO Caraballo tells him to keep his hands on the vehicle. At 3:53:18, § 87(2)(b) drops both his hands from the roof of the vehicle and a struggle ensues. PO Caraballo's BWC concludes at 3:53:27 (Board Review 05).

In Lt. Brovakos' BWC, at 3:53:19, after PO Zahid pats down § 87(2)(b) § 87(2)(b) appears to resist and pushes his body away from PO Zahid. At 3:53:28, Lt. Brovakos says, "Cuff him up, you're under arrest." PO Caraballo and PO Zahid attempt to handcuff § 87(2)(b) at 3:53:39 as he appears to flail his body.

Once § 87(2)(b) is on the ground, PO Zahid crouches to his right, and visibly does not have any knee on his back. PO Caraballo is also directly to § 87(2)(b)'s back and attempts to handcuff him. It is unclear whether he has any knee on § 87(2)(b)'s back. At 3:53:58, Lt. Brovakos says, "Caraballo, watch his back." PO Bhatti crouches to § 87(2)(b)'s left and visibly does not have any knee on his back. At 3:54:27, Lt. Brovakos tells PO Caraballo and PO Bhatti, "Perfect, you guys are perfect, there is room between the bodies. Excellent." At 3:54:39, Lt. Brovakos asks § 87(2)(b) "You caused me to bleed, why would you do that?" (Board Review 02).

§ 87(2)(b) stated that he tried to pull in both his arms to stop the officers from handcuffing him. His stomach was pressed against the car for approximately 30 seconds before all the officers then lifted him onto the roof of his car, before pulling him back down to the ground.

PO Zahid and PO Caraballo then handcuffed § 87(2)(b) § 87(2)(b) denied kicking his legs at the officers, but acknowledged he was trying to stand up. Lt. Brovakos, PO Zahid, and PO Rodriguez were on top of § 87(2)(b) with their knees on his back, causing his breathing to be restricted for approximately one minute. He told the officers that he was in pain, though he did not mention that he had trouble breathing.

Lt. Brovakos told § 87(2)(b) at the back of his car that he tried to cut Lt. Brovakos by fighting and kicking him. § 87(2)(b) saw a cut on Lt. Brovakos' hand, though he denied that he caused the cut. § 87(2)(b) sustained cuts on his right hand during the struggle, though he did not know how he got

them (Board Review 10).

§ 87(2)(b) stated that § 87(2)(b) was resisting by moving his arms closer to his body and wriggling them out of the officers' grasp. § 87(2)(b) did not see officers ever lift § 87(2)(b) onto the roof of his vehicle.

Two of the officers had their knees on § 87(2)(b)'s back, though § 87(2)(b) was not sure which of the officers did this. The officers handcuffed § 87(2)(b) after approximately two minutes, then instantly lifted him from the ground (Board Review 11).

§ 87(2)(b) stated that she was sitting in the vehicle and could not see what, if anything, § 87(2)(b) did with his hands as officers handcuffed him. On the ground, § 87(2)(b) moved his feet in various directions and screamed at the officers to stop. Lt. Brovakos, PO Caraballo, and PO Bhatti kneeled to § 87(2)(b)'s left, while PO Zahid kneeled to § 87(2)(b)'s right. Lt. Brovakos had both his left and right knees pressed into § 87(2)(b)'s back. PO Zahid had both his hands on § 87(2)(b)'s shoulders. PO Bhatti had his knees on § 87(2)(b)'s legs. § 87(2)(b) was on the ground for approximately 40 seconds in total and was handcuffed after around 20 seconds (Board Review 12).

PO Zahid testified that as he patted § 87(2)(b) down, he resisted by pushing his body into the vehicle. PO Zahid pulled him away from the vehicle again and continued to pat him down. At one point, § 87(2)(b) turned his left elbow towards PO Zahid's face which indicated to PO Zahid that he was either going to hit him or flee. He heard somebody say, "Cuff him," so he attempted to handcuff § 87(2)(b). He was not able to do so because § 87(2)(b) continued to move his body. § 87(2)(b) pushed into PO Zahid, at which time PO Zahid pushed back, so § 87(2)(b)'s torso hit his vehicle. PO Caraballo took § 87(2)(b) to the ground to handcuff him, though PO Zahid did not know how he did so.. PO Zahid assisted in taking him to the ground by holding one of his arms.

§ 87(2)(b) was handcuffed almost instantly once on the ground. Other than holding his arms, PO Zahid did not make any other physical contact with § 87(2)(b). PO Zahid and other officers lifted § 87(2)(b) by his arms as soon as he was handcuffed. At no time did PO Zahid witness any officer place a knee onto § 87(2)(b)'s back, nor did he do so himself. PO Zahid did not hear § 87(2)(b) complain of any trouble breathing (Board Review 15).

Lt. Brovakos testified that at no time did officers lift § 87(2)(b) onto the roof of his vehicle. On the ground, Lt. Brovakos attempted to place § 87(2)(b)'s hands behind his back while he kneeled by § 87(2)(b)'s legs. PO Caraballo and PO Zahid were on either side of § 87(2)(b). At no time was the knee of any officer pressing onto § 87(2)(b)'s back. Lt. Brovakos did not see § 87(2)(b)'s torso or upper body get compressed against the ground (Board Review 16).

PO Bhatti testified that at no time did he place either of his knees on § 87(2)(b)'s back, nor did he see any other officer do so (Board Review 22).

PO Rodriguez's testimony on April 12, 2022, was consistent with PO Zahid's. At no time did PO Rodriguez see any officer place a knee onto § 87(2)(b)'s back. He did not place a knee onto § 87(2)(b)'s back (Board Review 23).

PO Caraballo's CCRB testimony on April 12, 2022, was largely consistent with PO Zahid and PO Rodriguez. He did not place any knee on § 87(2)(b)'s back nor did he see any other officer do so (Board Review 24).

Patrol Guide Procedure 221-02 states, that "when a member of the service must gain compliance,

control, or custody of an uncooperative subject” and “if the use of de-escalation and conflict negotiation techniques fail to persuade an uncooperative subject to cooperate”, the member should “apply no more than the reasonable force necessary to gain control” (Board Review 25).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) identified Lt. Brovakos, PO Bhatti, and PO Rodriguez as the three officers who had their knees on his back when he was on the ground. Lt. Brovakos’ BWC from 03:53:53 until 03:54:33 captures the entire duration of time that § 87(2)(b) is on the ground. Neither PO Bhatti, who is to § 87(2)(b)’s left, Lt. Brovakos, who crouches towards § 87(2)(b)’s rear area below his back, nor PO Rodriguez, who is on the other side of § 87(2)(b)’s vehicle for the duration of the time that § 87(2)(b) is on the ground, visibly place a knee onto § 87(2)(b)’s back. § 87(2)(g)

While § 87(2)(b) identified PO Rodriguez as the third officer who placed a knee onto his back, BWC depicts PO Caraballo as the only other officer in addition to PO Bhatti, PO Zahid, and Lt. Brovakos on the ground adjacent to § 87(2)(b). In Lt. Brovakos’ BWC, PO Caraballo leans atop § 87(2)(b) at 03:53:51, obstructing § 87(2)(b)’s body with his own. At 03:53:57, Lt. Brovakos says, “Caraballo watch his back,” at which time PO Caraballo leans up and does not appear to have a knee on § 87(2)(b)’s back. No additional BWC provides a more descriptive angle regarding the location of PO Caraballo’s knee between 03:53:53 and 03:53:57. § 87(2)(g)

**Allegation (U) Abuse of Authority: Police Officer Christopher Rodriguez frisked § 87(2)(b).**

**Allegation (V) Abuse of Authority: Lieutenant Timothy Brovakos frisked § 87(2)(b).**

**Allegation (W) Abuse of Authority: Police Officer Christopher Rodriguez frisked § 87(2)(b).**

In PO Zahid’s BWC, both § 87(2)(b) and § 87(2)(b) are visible in the frame from 3:52:08 until § 87(2)(b) steps out of the vehicle at 3:52:51—their heads do not dip down, nor do their bodies move towards the center console. PO Rodriguez is depicted running § 87(2)(b)’s license plate on his phone in from 03:52:19 until 03:52:27 (Board Review 04).

In PO Rodriguez’s BWC, he parks and exits his vehicle at 3:52:09, at which time PO Zahid, PO Bhatti, and PO Caraballo had already approached the driver and passenger seats. The vehicle is dark, and from the vantage point depicted in the BWC, nobody inside the vehicle is visible. PO

Rodriguez pulls out two phones in both his hands at 3:52:14 and presses the screen of one of them repeatedly from 03:52:14 until 03:52:19, at which point he examines and types § 87(2)(b)'s license plate number into a digital database. At 3:52:35, he approaches the driver's side to the right of PO Zahid. § 87(2)(b) sits still in the back of the vehicle and speaks with PO Caraballo. PO Zahid tells § 87(2)(b) to step out of the vehicle at 3:52:40, and PO Rodriguez also instructs § 87(2)(b) to "Step out of the car." PO Caraballo tells PO Rodriguez "This guy over there" at 3:52:55, and PO Rodriguez walks over to the rear passenger side of the vehicle at 3:53:00.

At 3:31, PO Rodriguez asks § 87(2)(b) to exit the vehicle and he complies. At 3:54:52, Lt. Brovakos' right hand squeezes the left pocket of § 87(2)(b)'s jacket. PO Rodriguez uses his left hand to squeeze something that appears to be a crossbody bag on § 87(2)(b)'s left side. He uses both hands to feel the bag at 3:54:58. At 3:55:02, PO Rodriguez pats down both of § 87(2)(b)'s legs, then his waistband area. § 87(2)(b) walks to the rear of the vehicle with Lt. Brovakos at 3:55:14.

At 3:55:18, PO Rodriguez asks § 87(2)(b) "Can you do me a favor miss and please step out?" He opens the door of the vehicle. § 87(2)(b) says that she is the passenger, and she is allowed to refuse to step out of the vehicle. She holds her phone up to PO Rodriguez and appears to record him. § 87(2)(b) puts on her shoes and jacket and steps out at 3:57:12. PO Rodriguez says, "I have to make sure that there is nothing here, I'm just patting the pockets and that's it" as he appears to pat both of § 87(2)(b)'s jacket pockets at 3:47:14. He asks § 87(2)(b) to step to the back and she complies (Board Review 07).

In Lt. Brovakos' BWC, at 3:54:47, Lt. Brovakos approached § 87(2)(b) on the other side of the vehicle. He appears to hold his left arm up and runs his right hand over the left side of § 87(2)(b)'s body. PO Caraballo pats down the left side of § 87(2)(b)'s body. At 3:55:07, both of Lt. Brovakos' hands pat § 87(2)(b)'s chest. At 3:55:35, Lt. Brovakos walks over to § 87(2)(b) and tells her that the driver of the vehicle is under arrest, so she must exit the vehicle (Board Review 02).

PO Caraballo's BWC depicts him approaching the rear passenger seat of § 87(2)(b)'s vehicle at 3:52:00. He shines his light inside, at which time § 87(2)(b) and § 87(2)(b)'s heads are visible. They sit still and do not duck their heads down nor turn towards the center console at any time. § 87(2)(b) speaks to PO Caraballo and says that they are smoking but the vehicle is off. PO Caraballo responds that he understands, but that they cannot be smoking in a vehicle on a public roadway. PO Caraballo walks over to the other side of the vehicle at 3:52:50 (Board Review 05).

On September 23, 2022, PO Rodriguez testified that upon approaching the vehicle from the rear, he observed § 87(2)(b) and § 87(2)(b) all turn towards the center console and blade their body towards each other quickly. § 87(2)(b) bladed his body to the right, § 87(2)(b) bladed her body towards the left, and the back passenger dipped his head forward. He did not see a weapon inside of the vehicle, though these movements made PO Rodriguez believe they were either attempting to conceal marijuana or a weapon. Other than the furtive movements he observed, and that this was a high crime area, there were no additional reasons that led him to believe there was a weapon inside the vehicle. PO Rodriguez was not familiar with any of the passengers prior to this incident. PO Rodriguez did not memorialize the furtive movements he mentioned in any way.

Lt. Brovakos instructed PO Rodriguez to get § 87(2)(b) to exit the vehicle. At that time, it was PO Rodriguez's understanding that § 87(2)(b) was under arrest for DUI, so § 87(2)(b) had to

come out of the vehicle so the officers could vouch for it. PO Rodriguez did not speak to any officers regarding the arrest, but just assumed that this was the case from his independent observations of the marijuana, and because he saw officers handcuff § 87(2)(b). The passengers of the vehicle were not under arrest at this time. § 87(2)(b) complied, and PO Rodriguez frisked the outer garments of his pants and his waistband area. Lt. Brovakos conducted the frisk with him, though PO Rodriguez did not recall where Lt. Brovakos frisked. Lt. Brovakos did not instruct PO Rodriguez to conduct the frisk. PO Rodriguez initially stated that he did not observe any bulges anywhere on his body prior to frisking him. However, at a later point in the interview, PO Rodriguez said that he observed bulges in the areas that he frisked. He could not recall the shapes nor the sizes of those bulges. He conducted a frisk to recover the evidence of marijuana, and because he observed furtive movements in the vehicle that made him believe that § 87(2)(b) may have a weapon. He specifically frisked those areas because those are the viable areas where he could conceal “evidence”—meaning either marijuana or weapons—in his pockets. In frisking for marijuana, PO Rodriguez was specifically feeling for a joint. He did not recover anything from § 87(2)(b)'s person.

PO Rodriguez then instructed § 87(2)(b) to exit the vehicle several times before she finally stepped out of the vehicle. PO Rodriguez then frisked her front pockets. He did not observe any bulges in those pockets. However, PO Rodriguez later stated that he did observe bulges in her pockets, which was the reason he chose to frisk those pockets. He could not recall anything about the shape nor the size of the bulges. The purpose for the frisk was to find evidence of marijuana or weapons. Lt. Brovakos did not instruct PO Rodriguez to conduct a frisk.

PO Rodriguez was presented with his BWC located in IA #106. The video was played from 03:54:27 until 03:55:15. PO Rodriguez stated that he did not appear to frisk § 87(2)(b)'s arms, but simply lifted them so that he could conduct a pat down of his lower body. PO Rodriguez did not recall the reason for the frisk of § 87(2)(b)'s lower body. PO Rodriguez stated that he could not see the bulges he described in the video because the video was too dark (Board Review 26).

Lt. Brovakos provided additional testimony to the CCRB on September 22, 2022. He stated that he did not independently recall frisking any individual on December 4, 2021. He was presented with his BWC footage, located in IA #105, played from 3:43 until 4:22. The video did not refresh his recollection and he said he could not tell whether he was frisking § 87(2)(b) in the video. The undersigned paused the video at 4:10, at which point Lt. Brovakos identified his own hands in the frame, though he stated that they do not appear to be touching § 87(2)(b)'s jacket. He added that even if his hands were touching § 87(2)(b) then this information was still inconclusive evidence that a frisk was taking place. He could not remember what he was doing in the video, though he stated that he could have been establishing distance between himself and § 87(2)(b).

The undersigned presented Lt. Brovakos with PO Rodriguez's BWC, located in IA #106, and played from 03:54:19 until 03:55:00. The video did not refresh Lt. Brovakos' recollection of this incident. Though he still did not recall frisking § 87(2)(b) in this portion of BWC, he recalled the reason for the frisk. Specifically, he stated that the situation escalated from a regular car stop for marijuana, as § 87(2)(b) fought the officers. When asked how the actions of the driver led to his decision to frisk the passenger, Lt. Brovakos stated that § 87(2)(b)'s refusal to exit the vehicle raised his level of suspicion regarding the vehicle. Additionally, when Lt. Brovakos looked inside the vehicle with a flashlight, he observed “suspicious behavior,” which he could not describe, that was consistent with his previous experience interacting with individuals who concealed firearms. Within a two to three block radius of this location, Lt. Brovakos has made numerous firearms arrests in 2021 prior to this incident, which also contributed to his raised suspicion about a weapon inside the vehicle. He was not aware of any connection between the passengers of § 87(2)(b)'s

vehicle and the individuals involved in the firearms arrests that he noted. He was not familiar with § 87(2)(b) prior to this incident, nor did he learn whether any of the other officers on scene had any familiarity with him. Lt. Brovakos did not recall who participated in the suspicious behavior, though he did recall seeing it come from the backseat where he shone his light.

He instructed PO Rodriguez to “hold down” the other side of the vehicle where the passengers were because he feared that the passengers might shoot them in the back of the head. By the time that Lt. Brovakos came over to the other side of the vehicle, PO Rodriguez was already conducting a frisk, which prompted Lt. Brovakos to believe that there was something else that he did not witness that warranted a frisk. He did not recall whether he had any conversation with PO Rodriguez about any suspicious activity that he observed. Lt. Brovakos did not remember whether he saw any bulges on § 87(2)(b) s body. § 87(2)(b) was not under arrest at the time of the frisk. Lt. Brovakos did not memorialize the factors that contributed to the frisk in any way, nor was he aware of any other officer memorializing these factors.

Lt. Brovakos did not know why PO Rodriguez asked § 87(2)(b) to exit the vehicle. He did not recall if he personally issued any commands to § 87(2)(b). On this day, Lt. Brovakos did not receive any information regarding weapons inside § 87(2)(b) s vehicle. Lt. Brovakos did not recall frisking any other individual during this incident. Lt. Brovakos did not recall witnessing PO Rodriguez frisk anyone else. He did not know why PO Rodriguez frisked § 87(2)(b). He did not recall instructing PO Rodriguez to frisk any other passenger inside the vehicle.

The undersigned continued to play PO Rodriguez’s BWC from 3:55:14 until 03:57:28. This portion of the video did not refresh Lt. Brovakos’ recollection of witnessing PO Rodriguez frisk § 87(2)(b). Specifically, he did not recall seeing PO Rodriguez squeeze the pockets of § 87(2)(b) s jacket. Lt. Brovakos had no recollection of instructing PO Rodriguez to frisk § 87(2)(b). Lt. Brovakos stated that he did not recall whether he made any observations that led him to believe that § 87(2)(b) was armed other than what he had previously mentioned, and that § 87(2)(b) refused to exit the vehicle, which is consistent with the behavior of somebody concealing a firearm. Lt. Brovakos stated that § 87(2)(b) was asked to exit the vehicle because as § 87(2)(b) was considered under arrest at this time, the vehicle he drove was to be vouchered, and this required that she exit the vehicle. § 87(2)(b) was not under arrest at the time of the frisk (Board Review 27).

*People v. Stevenson*, 273 A.D.2d 826 ruled that “suspicious movements” combined with a high crime area location did not satisfy the reasonable cause requirement to believe a crime was afoot or reasonable cause to believe that defendant was armed (Board Review 29).

PO Rodriguez stated that he frisked § 87(2)(b) and § 87(2)(b) because he observed furtive movements when he approached the vehicle; that the stop was within a high-crime area; that he observed bulges on § 87(2)(b) and § 87(2)(b) and that he was frisking for evidence of marijuana.

§ 87(2)(b)  
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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (X) Abuse of Authority: Police Officer Mubbashar Zahid threatened to arrest**

§ 87(2)(b)

**Allegation (Y) Abuse of Authority: Police Officer Mubbashar Zahid threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) denied kicking any of the officers (Board Review 10).

In PO Zahid's BWC, at 3:54:30, PO Zahid walks back over to the vehicle and tells § 87(2)(b) to step out several times. She says, "For what?" and holds her phone facing PO Zahid. PO Zahid tells § 87(2)(b) at 03:54:36, "Step out or you're going to be placed under arrest."

At 03:55:26, PO Zahid walks towards the rear of § 87(2)(b)'s vehicle, where § 87(2)(b) stands

with the rest of the officers. At 03:55:26, § 87(2)(b) tells the officers that he needs all of their names and badge numbers. PO Zahid says that § 87(2)(b) is “hiding something in his pants,” and at 03:55:57, officers lean § 87(2)(b) against the rear of his vehicle. § 87(2)(b) says that he does not have anything repeatedly. At 03:56:36, PO Zahid tells § 87(2)(b) that if he kicks him one more time, he is going to charge him with assault against a police officer. The footage captures § 87(2)(b) from the chest up and thus does not depict § 87(2)(b) kicking PO Zahid (Board Review 04).

PO Zahid testified that § 87(2)(b) kicked him in the shin area repeatedly as he was attempting to handcuff him. He did not receive any medical attention for his injuries, nor did he memorialize them in any way (Board Review 15).

Lt. Brovakos testified that as PO Zahid was handcuffing § 87(2)(b) Lt. Brovakos heard PO Zahid say that § 87(2)(b) was kicking him, though Lt. Brovakos did not see this occur because their bodies obstructed his line of vision (Board Review 16).

PO Rodriguez could not see where exactly § 87(2)(b) kicked, though he observed the motion of kicking at least twice as PO Zahid attempted to handcuff him (Board Review 22).

*NY CLS Penal § 120.08* “A person is guilty of assault on a police officer when, with intent to prevent a police officer from performing a lawful duty, he or she causes serious physical injury to such police officer.” This offense is a class C felony (Board Review 30).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (Z) Abuse of Authority: Police Officer Christopher Rodriguez searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) stated that Lt. Brovakos called an ambulance to evaluate him because he was acting “crazy.” While he was being evaluated in the ambulance, § 87(2)(b) received a summons for drinking in a prohibited area. He was not arrested (Board Review 10).

§ 87(2)(b) stated that an ambulance arrived and evaluated § 87(2)(b) During this time, all the officers searched § 87(2)(b)s vehicle. They did not recover anything from the vehicle (Board Review 11).

§ 87(2)(b) stated that PO Rodriguez told § 87(2)(b) to get out of the vehicle because they were “taking the car.” Lt. Brovakos and PO Rodriguez searched the passenger compartment of § 87(2)(b)s vehicle while § 87(2)(b) was in the ambulance (Board Review 12).



In PO Zahid's BWC, at 03:58:20, Lt. Brovakos says that § 87(2)(b) is going to the 78th Precinct because he is under arrest. Lt. Brovakos calls for EMS to come and evaluate § 87(2)(b) at 03:59:36 over the radio. EMS arrives at 04:07:07, and PO § 87(2)(b) walks to the ambulance with PO Zahid at 04:08:22. § 87(2)(b) answers the EMTs questions and refuses medical attention. At 04:15:15, PO Zahid hands him a summons. The video concludes as PO Zahid steps out of the ambulance (Board Review 04).

In PO Rodriguez's BWC, he shines his light into the front and back seat of § 87(2)(b)'s empty vehicle at 3:57:37. He reaches inside and looks through a tote bag in the front passenger seat. He takes several items out of the bag and places them back inside, then opens the center console and looks inside. At 3:58:47, PO Rodriguez opens the door to the rear passenger seat of the vehicle, reaches inside, and moves around several items. The rest of his BWC video is redundant with PO Zahid's (Board Review 07).

PO Zahid testified that he and other officers lifted § 87(2)(b) and brought him to the rear of the vehicle, where he ran his history. He found that § 87(2)(b) had an "EDP" history—specifically, when he was younger, he would begin to scream out of nowhere. The officers determined that it would be more appropriate for § 87(2)(b) to be evaluated for any mental health issues than to be arrested.

When EMS arrived, other officers searched § 87(2)(b)'s vehicle, though he was not sure who searched it nor where they searched because he was in the ambulance with § 87(2)(b). PO Zahid stated that if a person is arrested for impairment, it is standard procedure to search the vehicle for evidence of impairment so that the evidence can be brought to court. At the time when the vehicle was searched, PO Zahid believed § 87(2)(b) was under arrest. PO Zahid did not know what happened to the blunt in § 87(2)(b)'s hand, nor did he recover it. PO Zahid did not learn of any traces of marijuana that other officers found in the vehicle (Board Review 15).

Lt. Brovakos could not recall whether any officer searched § 87(2)(b)'s vehicle once he was handcuffed. He believed that § 87(2)(b) was under the influence of either alcohol or drugs, given the presence of marijuana in the vehicle and his loud demeanor. He thus requested the IDTU and EMS to the location to evaluate § 87(2)(b). Once EMS arrived, EMS evaluated § 87(2)(b) and determined that he was not emotionally disturbed nor intoxicated. As a result, Lt. Brovakos cancelled his request for IDTU. Lt. Brovakos then made the decision not to arrest § 87(2)(b) because he believed it was in § 87(2)(b)'s best interest to receive medical assistance rather than go to jail. To Lt. Brovakos' knowledge, no evidence of marijuana was recovered. Lt. Brovakos himself did not search the vehicle (Board Review 16).

Lt. Brovakos later testified that an individual could be summonsed for smoking marijuana in a vehicle, though this is not a "must arrest" situation. Lt. Brovakos initially requested IDTU to evaluate whether § 87(2)(b)'s level of intoxication was above or below the legal limit to determine whether he would be arrested (Board Review 20).

PO Rodriguez testified that he did not independently evaluate § 87(2)(b) at any time during the incident, because he walked over to the other side of the vehicle on Lt. Brovakos' instruction almost immediately once § 87(2)(b) got out of the vehicle. However, § 87(2)(b) refused to step out of the vehicle several times and fought the officers as they attempted to handcuff him, which was consistent with the behavior of an impaired individual. In PO Rodriguez's experience, individuals often refuse to exit a vehicle because they do not want to be evaluated, as an evaluation could determine that they are impaired. No other factors contributed to PO Rodriguez's belief that

§ 87(2)(b) was impaired.

§ 87(2)(b) was not ultimately arrested but issued a summons, because it was determined that he was not impaired. He said that he did not wait to search the vehicle until after determining whether § 87(2)(b) was impaired because he saw § 87(2)(b) in handcuffs after fighting the officers, and therefore believed that § 87(2)(b) was already under arrest. PO Rodriguez clarified that an evaluation would consist of asking the driver to step out of the vehicle and observing their speech, body movements, and their balance, amongst other factors.

There was no reason, other than to search for evidence of the marijuana, that PO Rodriguez searched the vehicle. He did not recall where he searched inside the vehicle, though he recalled searching a tote bag in the front passenger seat. He did not learn from any officer up until this point about the level of § 87(2)(b)'s intoxication, nor did he evaluate § 87(2)(b) himself. Lt. Brovakos did not instruct PO Rodriguez to conduct a search of the vehicle (Board Review 25).

*NY CLS Veh & Tr § 1192(4)* states, that “No person shall operate a motor vehicle while the person’s ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter” (Board Review 31).

*NY CLS Veh & Tr § 1227(1)* states, that “The drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction” (Board Review 32).

The NYPD Marijuana Bulletin, effective since April 1, 2021, states, that searches of vehicles related to marijuana enforcement may only be conducted in accordance with VTL 1192(4). A search of the passenger compartment of the vehicle is permissible under VTL 1192(4) only “If the driver appears to be under the influence of marihuana and there is probable cause to believe that the vehicle contains evidence of the impairing marihuana (e.g., smell of burnt marihuana or admission of having smoked recently).” However, “If a driver exhibits no signs of impairment but is observed smoking/consuming marihuana while operating a vehicle, or admits to smoking/consuming marihuana while driving, or there is a smell of burnt marihuana in the vehicle that is attributable to the driver, enforcement can be taken for VTL 1227(1). This traffic infraction alone cannot be the basis of a search of the vehicle” (Board Review 33).

§ 87(2)(g)

[REDACTED]

**Allegation (AA) Abuse of Authority: Police Officer Aaqib Bhatti refused to provide his name to § 87(2)(b)**

§ 87(2)(b) stated that the officers left the location with § 87(2)(b)'s car keys. § 87(2)(b) called the 71<sup>st</sup> Precinct and informed a sergeant that the officers left the location with their keys. One of the vehicles returned to the location and the driver rolled down the window to hand § 87(2)(b) his keys. § 87(2)(b) took the keys and asked the officer who handed him the car keys for his name while the window was still rolled down. The driver rolled the window up without providing any name or badge number and drove away. § 87(2)(b) did not see who was driving the vehicle (Board Review 12).

PO Bhatti testified that once the officers left the location, he checked his pocket and realized that he still had § 87(2)(b)'s keys on his person. Lt. Brovakos drove back, and PO Bhatti gave § 87(2)(b) his keys. PO Bhatti did not have any conversation with § 87(2)(b) and to PO Bhatti's knowledge, § 87(2)(b) did not ask him nor any other officer for his name or badge number. PO Bhatti did not refuse to provide his name or badge number to § 87(2)(b) nor did he witness any other officer do so (Board Review 22).

Lt. Brovakos' testimony was consistent with PO Bhatti's. PO Zahid's testimony was consistent with PO Bhatti's, though he could not recall who gave § 87(2)(b) back his keys. He did not hear § 87(2)(b) ask any officer for their names or badge numbers at that time (Board Reviews 15 and 16).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Bhatti has been a member of service for five years and has been a subject in three other CCRB complaints and five other allegations, none of which were substantiated.
- PO Rodriguez has been a member of service for five years and has been a subject in ten other CCRB complaints and 23 other allegations, of which four were substantiated:
  - 202103919 involved substantiated allegations of abuse of authority against PO Rodriguez. The Board recommended Command Discipline A and the NYPD penalty is unknown.
- PO Zahid has been a member of service for four years and has been a subject in nine other CCRB complaints and 20 other allegations, of which two were substantiated:
  - 202100053 involved substantiated allegations of abuse of authority against PO Zahid. The Board recommended Command Discipline B and the NYPD imposed formalized training.

- PO Caraballo has been a member of service for 10 years and has been a subject in five other CCRB complaints and six other allegations, none of which were substantiated.
- Lieutenant Brovakos has been a member of the service for fifteen years and has been identified as a subject in 39 cases and 159 allegations, seventeen of which have been substantiated.
  - 201500206 involved a substantiated allegation of vehicle search. The Board recommended Command Discipline B. The NYPD imposed formalized training.
  - 201905132 involved a substantiated allegation of discourtesy. The Board imposed command level instructions and the NYPD imposed instructions.
  - 201910398 involved a substantiated allegation of failure to provide RTKA card, vehicle stop, and discourtesy (word). The Board recommended Command Discipline A. The NYPD imposed no disciplinary action.
  - 202003306 involved a substantiated allegation of seizure of property. The Board recommended Command Discipline A. The NYPD has not yet imposed discipline.
  - 202007423 involved two substantiated allegations of failure to provide RTKA card. The Board recommended that he receive Command Discipline B. The NYPD has not yet imposed discipline.
  - 202007569 involved two substantiated allegations of failure to provide RTKA card. The Board recommended that he receive Command Discipline B. The NYPD has not yet imposed discipline.
  - 202100053 involved substantiated allegations of failure to provide RTKA card, frisk, stop and threat of arrest. The Board recommended that he receive charges. The NYPD has not yet imposed discipline.
  - 202100965 involved substantiated allegations of failure to provide an RTKA card, seizure of property, and two discourtesies (word). The Board recommended charges and the NYPD has not yet imposed discipline.
  - 202103599 involved substantiated allegations of failure to provide an RTKA card and a frisk. The Board recommended charges and the NYPD has not yet imposed discipline.
  - 202103919 involves substantiated allegations of failure to provide an RTKA card, a frisk, and a stop. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
  - 202104788 involved a substantiated allegation of discourtesy. The Board recommended Command Discipline A, and the NYPD has not yet imposed discipline.

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of October 19, 2022, a Notice of Claim FOIL request was filed with the New York City Office of the Comptroller (Board Review 35). The results are pending.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Squad: 8

Investigator: Stephanie Dukich  
Signature

Inv. Stephanie Dukich  
Print Title & Name

November 14, 2022  
Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo November 16,  
2022

Signature

Print Title & Name

Date

Reviewer: \_\_\_\_\_  
Signature

Print Title & Name

Date